

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**CRIMINAL MISC.APPLICATION No. 7847 of 2003****With****CRIMINAL MISC.APPLICATION NO. 7850 OF 2003****CRIMINAL MISC.APPLICATION NO. 7857 OF 2003****CRIMINAL MISC.APPLICATION NO. 7969 OF 2003****CRIMINAL MISC.APPLICATION NO. 8422 OF 2003****CRIMINAL MISC.APPLICATION NO. 8687 OF 2003****CRIMINAL MISC.APPLICATION NO. 8688 OF 2003****CRIMINAL MISC.APPLICATION NO. 8819 OF 2003****AND****CRIMINAL MISC.APPLICATION NO. 8825 OF 2003****For Approval and Signature:****HONOURABLE MR.JUSTICE S.R.BRAHMBHATT**

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge
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K V BHANUJAN - Applicant**Versus****STATE OF GUJARAT & 1 - Respondents**

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Appearance :

MR AD SHAH for Applicant in all petitions:

MR. M.A. PATEL, LD. APP for State in all petitions:

Smt. Jyotiben Shukla- party in person for Ori. Complainant in all
petitions .

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CORAM : HONOURABLE MR.JUSTICE S.R.BRAHMBHATT

Date : 29/09/2006

COMMON ORAL JUDGMENT:

1.This group of petitions were listed for hearing in the board of 28th September, 2006. Since Smt. Jyotiben Shukla, widow of original complainant – respondent no.2 herein, has not remain present, this group was adjourned for 29th September, 2006, i.e. today. As the Registry did not notify this group of 9 matters, this Court called the matters from the Registry and with the consent of learned counsels for the parties same are finally heard & decided.

2.This group of matters are filed seeking quashment of the criminal proceedings, details whereof is stated hereunder for commission of offences under Section 193, 197, 465, 471, 474 and 114 of I.P. Code with slight variation in revoking the sections in different cases.

Sr. No.	Misc. Cri. Appeal No.	Criminal Case no.	Complainat for offence under IPC	Offences under	Date of process	Ordr passsd by Ld. JMFC in Cri. Inquiry Case No.
1.	7847 /2003	5679/03	193,195,197,198 218,465,469,471 and 474	193,197, 465,471, 474and 114	22/10/ 2003	On 15/9/2003 in Inq. Case No.132 of 2003.
2.	7850/2003	5727/03	193,195,197,198 218,465,469,471 and 474.	193,196, 465,471 and 474.	23/10/ 2003	On 17/9/2003 in Inq. Case No. 133 of 2003.
3.	7857/2003	5497/03	403,409,418,218 etc.	409 and 114	07/10/ 2003	On 9/9/2003 in Inq. Case No. 130 of 2003.
4.	7969/2003	5498/03	193.195,197,465 469,471 and 474	193,198, 465,471, 474 & 166	07/10/ 2003	On 9/9/2003 in Inq. Case No. 131 of 2003.

Sr. No.	Misc. Cri. Appeal No.	Criminal Case no.	Complainat for offence under IPC	Offences under	Date of process	Ordr passsd by Ld. JMFC in Cri. Inquiry Case No.
5.	8422/2003	5921/03	193,195,197,465 469,471 & 474	194,196 465,471 and 474.	23/10/ 2003	On 24/9/2003 in Inq. Case No. 134 of 2003.
6.	8687/2003	6277/03	193.195,197,198 218,465,469,471 and 474.	193,196 465,471 474 & 114	5/11/ 2003	On 8/10/2003 in Inq. Case No. 136 of 2003.
7.	8688/2003	6105/03	193,195,197,198 218,465,469,471 and 474	193,196 465,471, 474 & 114.	5/11/ 2003	On 30/09/2003 in Inq. Case No. 135 of 2003.
8.	8819/2003	6350/03	193.195,197,198 218,465,469,471 and 474.	193,196 465,471, 474 & 114	5/11/ 2003	On 9/10/2003 in Inq. Case No. 137 of 2003.
9.	8825/2003	6398/03	193,196,465,471 and 474	193,196 465,474	5/11/ 2003	On 10/10/2003 in Inq. Case No. 138 of 2003.

3. It is stated at the Bar by Shri. Shah that original complainant has passed away on 30/5/2005 and the death certificate is also produced on record. The wife of original complainant Smt. Jyotiben Shukla is present in the Court, who has been identified by Shri. Dharmesh Nanavati, learned counsel for late Shri. Shukla. Smt. Shukla also filed an affidavit stating that no useful purpose would be served in pursuing criminal proceedings. In identical matters wherein issuance of process was challenged in Criminal Revision Application No. 21, 22, 23 and 50 of 2004, arising from same proceedings between same parties. This Court (Hon'ble Mr. Justice D.N. Patel) vide his order dated 13/7/2006 was pleased to quash said proceedings.

4. No elaborate discussion is called for in view of the consensus prevailing among the learned

counsels. As it is seen, permitting criminal proceedings to go on in absence of the original complainant is not going to serve any fruitful purpose. At the same time even on merits also, looking to the allegations, it is deserved to be noted that the essential ingredients of the sections alleged are not clearly made out.

5. In view of the attending facts & circumstances and in view of the Apex Court decision in case of STATE OF KARNATAKA Vs. L. MUNISWAMY & ORS, in which Honourable Court in para no.7 has observed as under:-

“ 7.... In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. ”

This Court therefore consider it fit & proper case wherein the process deserved to be quashed and it is accordingly hereby quashed.

Rule in each petition is made absolute. Direct service permitted.

6. Registry is directed to keep copy of this judgment in each petition.

[S.R. BRAHMBHATT, J]

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